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Office of the Fiscal Assistant Secretary
U.S. Department of the Treasury
Room 2112
1500 Pennsylvania Ave. N.W.
Washington D.C. 20220

Re: Comment on Possible Regulation Regarding Access to Accounts at Financial Institutions Through Payment Service Providers

These comments respond to the Advanced Notice of Proposed Rule Making published at 64 Fed. Reg. 1149-1152 (January 8, 1999). Thank you for the opportunity to submit these comments.

The Legal Aid Foundation of Los Angeles (LAFLA) was established in 1929 to ensure that the poor and indigent have access to the civil justice system. The Foundation provides free counsel, representation, advocacy and community education in seven priority areas: Housing, Government Benefits, Family Law, Immigration and Individual Rights, Employment, Consumer, Homeowners' Rights, and Community Economic Development. Through our neighborhood offices, courthouse-based clinics, on-site clinics and workshops, and other outreach efforts, LAFLA works to develop opportunities, resolve problems, and improve the lives of our clients through creative In 1998, LAFLA provided direct assistance to more than 21,000 clients and helped thousands more through collaborative projects with other legal and social services agencies.

We urge Treasury to prohibit arrangements between federally insured financial institutions and payment service providers that permit recipients of federal benefits access to their benefits through the payment service providers. We are already concerned about a number of abusive practices, including payday loans and high fees for services, by such providers. We do not believe that Treasury should stimulate the growth of their activities by allowing these fringe providers of financial services—check cashers, pawnshops and money transmitters among others--to distribute federal benefits.

<u>High Fees and Payday Loans</u>

Check cashing is a lucrative and expanding business; the number of check cashers has doubled in less than a decade. This industry serves those whom the federally insured and regulated banks have failed to serve, but it does so at a premium. In the more densely

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populated areas of Los Angeles County, the average rate for cashing a check is a relatively low 1.75%. Even at that "low" rate, though, a recipient of Supplemental Security Income (SSI) who receives a monthly check for $676 will be charged $11.83 to cash that check each month at a check casher—almost four times the monthly fee contemplated for ETA accounts, but with none of the attendant services. Even if partnerships between banks and check cashers produce lower fees, the agreements negotiated thus far still propose higher fees for fewer services than the structure proposed for ETAs.[1]

Beyond the fact that the check cashers' fees are high, the real irony is that they are part of a fee structure for financial services that is highly regressive. The middle class is unlikely to use the services of check cashers. Among recipients of federal payments, the mean income of those with bank accounts is $26,000, while the mean income of those without bank accounts is $14,000.[2] This data is hardly surprising in light of the particulars of the transaction: a person cashing a $2000 paycheck at a check casher charging a 1.75% fee will pay $35. Such a fee will no doubt seem outrageous to the middle class consumer who can and does get her financial services for fees that are much lower both in absolute terms and especially when stated as a percentage of her income.

Disturbing as the fees are, the more egregious practice is that of payday loans, the real cash cow of the industry. Payday loans are short-term loans made by check cashers at rates of interest ranging from 200% to nearly 1000% APR. Although promoted as an aid to consumers who are in short-term, emergency situations, the reality is that for many with low incomes, payday loans are taken all too frequently. According to one report, the typical payday loan borrower takes an average of eleven such loans in a year.[3] This statistic reveals that many borrowers are caught in escalating cycles of debt, fueled by the usurious interest rates.

Arrangements between banks and payment service providers for check distribution will both: a) ensure that consumers whose only access to their funds is through check cashers will pay higher fees for that access than other consumers, and b) facilitate the selling of exploitive products such as payday loans to this population.

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[1] Citicorp and the National Check Cashers Association propose to offer access, for which recipients will pay $3 to $6 per month <u>in addition to transaction fees</u> of $1 to $2 for ATM and POS transactions, <u>and</u> surcharges from the ATM or POS owners. Charles Keenan,"Citicorp to Issue Debit Cards Through Check Cashers," *American Banker*, January 19, 1999.

[2] John D. Hawke, Undersecretary of the Treasury, Questions from House Committee on Banking and Financial Services, Reference to April 1997 "Mandatory EFT Demographic Study," United States Treasury.

[3] Mark Anderson, "Cash Poor, Choice Rich," *Sacramento Business Journal*, January 11, 1999.

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Conclusion

Treasury's stated goals for EFT'99 were to reduce government costs and to encourage recipients to participate in the mainstream economy. Allowing check cashers and other payment service providers to deliver the benefits might meet help to reduce costs, but it will eviscerate any real progress towards the second goal. The arrangements that are now being brokered between payment service providers and federally insured financial institutions are consistent with and symbolic of banks' historic disinterest in serving low-income consumers. The pressure to permit deals such as these highlights yet again the central challenge in bringing low income people into the financial manistream: many poor neighborhoods have few or no banks. The response to this challenge must not be to permit deals that actually penalize those in need of better service and that also, by their very existence, mitigate against the development of better solutions. Instead, Treasury should use this opportunity to respond to the high costs and second class services now provided to low-income consumers by requiring banks to find innovative and effective means for reaching those without bank accounts. Alternatives, if necessary, to brick and mortar branches might include developing access through government, community-based and non-profit organizations. Funneling more money to the for-profit check cashing industry, however, should not be any part of the solution.

Sincerely,

Laura C. Fry

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